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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,225	11/08/2000	Keith Luker	1511-00	1140
22469	7590	11/10/2004	EXAMINER	
SCHNADER HARRISON SEGAL & LEWIS, LLP 1600 MARKET STREET SUITE 3600 PHILADELPHIA, PA 19103			ART UNIT	PAPER NUMBER

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT      PAPER

1004

DATE MAILED:

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Commissioner for Patents

David L. Sorkin  
Primary Examiner  
Art Unit: 1723

### **Notice of Non-compliance**

1. The communication received 25 October 2004 fails to comply with a variety of rules.
2. Firstly, 37 CFR 1.192 has been eliminated. 37 CFR 41 is now in effect and regulates practice before the board. Particularly, 37 CFR 41.37 sets forth requirements regarding appeal briefs.
  - a. The brief must have headings corresponding to 37 CFR 41.37(c)(1)(i)-(x).
  - b. 37 CFR 41.67(c)(1)(v) requires as summary "which shall refer to the specification by column and line number and to the drawing(s), if any, by reference characters".
  - c. The rejection under section 102 of claims being anticipated by LeRoy (US 3,486,192) should be treated as a single ground for rejection for CFR 41.37(c)(1)(vi)-(vii), though applicant may argue subsets of the claims separately.
3. Also, in the claim appendix of the brief, line 1 of claim 3 incorrectly reads: "The apparatus of Claim 34 36 ...". The number "34" should not appear.
4. The instant application is not eligible for amendment under 37 CFR 1.116. 37 CFR 41.33 now controls amendments filed on the same date or after an appeal brief has been filed and apparently does not permit amendments other than canceling claims or rewriting claims in independent form, such as amendment of the drawings.

5. 37 CFR 1.121(c) does not permit the status identifiers "(Previously Amended)" and "(Previously Added)". Instead, "(Previously presented)" must be used if appropriate.
6. 37 CFR 1.121(d) requires that amended drawing sheets be labeled "Replacement Sheet" in the top margin.

In accordance with 37 CFR 41.37(d) applicant is hereby given time period of ONE MONTH to file an amended, compliant brief. Failure to file a brief overcoming all aspects of non-compliance with 37 CFR 41.67 stated in this notice shall result in dismissal of the appeal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David L. Sorkin  
Primary Examiner  
Art Unit 1723

DLS